

FILED *a*
JUN 21 2021

SUSAN Y. SOONG
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOWTHER,
Plaintiff,
v.
TESLA INC.,
Defendant.

Case No. 21-cv-04735-JCS

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable Joseph C. Spero . When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, the Notice of Assignment of Case to a United States Magistrate Judge for Trial, and all other documents specified in Civil Local Rule 4-2. Plaintiffs or removing parties must file a consent or declination to proceed before a magistrate judge within 14 days of the filing of the complaint or the removal. All other parties must file a consent or declination within 14 days of appearing in the case. All parties who have made an appearance must file a consent or declination within 7 days of the filing of a dispositive motion or the case will be reassigned to a district court judge. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at <http://www.cand.uscourts.gov/adr>. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

IT IS FURTHER ORDERED that plaintiff or removing defendant serve upon all parties

the brochure entitled "Consenting To A Magistrate Judge's Jurisdiction In The Northern District Of California", additional copies of which can be downloaded from the court's Internet website: <http://www.cand.uscourts.gov>.

CASE SCHEDULE – ADR MULTI-OPTION PROGRAM

Date	Event	Governing Rule
6/21/2021	Complaint Filed	
9/10/2021	*Last day to: • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan • file ADR Certification signed by Parties and Counsel (form available at http://www.cand.uscourts.gov)	<u>FRCivP 26(f) & ADR L.R.3-5</u> <u>Civil L.R. 16-8(b) & ADR L.R. 3-5(b)</u>
9/24/2021	**Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u>
10/1/2021	INITIAL CASE MANAGEMENT CONFERENCE (CMC) at 2:00 PM in: Courtroom F, 15th Floor Phillip Burton Federal Building 450 Golden Gate Avenue San Francisco, CA 94102	<u>Civil L.R. 16-10</u>

* If the Initial Case Management Conference is continued, unless otherwise ordered this deadline is continued to 21 days in advance of the Initial Case Management Conference.

** If the Initial Case Management Conference is continued, unless otherwise ordered this deadline is continued to 7 days in advance of the Initial Case Management Conference.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CIVIL STANDING ORDERS FOR MAGISTRATE JUDGE JOSEPH C. SPERO

(Revised March 1, 2021)

The parties shall follow the General Orders of the Court for the Northern District of California, the Local Rules, and the Federal Rules of Civil Procedure, except as expressly modified herein. Failure to comply with any of the rules and orders may be deemed sufficient grounds for monetary sanctions, dismissal, entry of default judgment, or other appropriate sanctions.

A. SCHEDULING HEARINGS AND CONFERENCES

1. Civil Law and Motion is heard on Fridays at 9:30 a.m., except that when Judge Spero is on criminal duty, Civil Law and Motion is heard on Fridays at 2:00 p.m. Counsel should notice civil motions for hearing in accordance with the Civil Local Rules and need not reserve a hearing date in advance for civil motions. However, noticed dates may be reset as the Court's calendar requires.

2. Criminal Law and Motion is heard on Fridays at 10:30 a.m.

3. Case Management Conferences and Pretrial Conference are heard on Fridays at 2:00 p.m. Case Management Conferences are not recorded unless at least one party in the case is appearing pro se or counsel makes a specific request at the commencement of the Case Management Conference that it be recorded.

4. Requests to appear telephonically at a case management conference or hearing must be filed and served one week before the conference in accordance with Civil L.R. 16-10(a). **This is suspended until further order of the Court.** All appearances will be by Zoom Webinar. Zoom Webinar ID: 161 926 0804. Password: 050855. See Judge Spero's Standing Order on COVID-19 Procedures.

5. Parties should address all questions regarding scheduling to Judge Spero's courtroom deputy, Karen Hom, at (415) 522-2035.

B. CONSENT

6. In cases that are randomly assigned to Judge Spero for all purposes, a Consent or Declination to Magistrate Judge Jurisdiction form will be mailed to all parties. The parties are requested, within two weeks from receipt of the form, to complete and file the form indicating their consent or request for reassignment to a District Judge.

C. CHAMBERS COPIES

7. Pursuant to General Order 72-3, no paper courtesy copies will be accepted by the undersigned pending further order of the Court. Instead, courtesy copies should be emailed to jcsपो@cand.uscourts.gov. In addition, any proposed stipulation or proposed order in a case subject to electronic filing shall be sent by email to jcsपो@cand.uscourts.gov. This address is to be used only for proposed orders and courtesy copies unless otherwise directed by the Court.

D. SETTLEMENT CONFERENCE STATEMENTS

8. Settlement Conference Statements must be LODGED with Chambers (NOT electronically filed). To lodge Settlement Conference Statements, parties should submitting them in .pdf format via email to JCSsettlement@cand.uscourts.gov. Pending further order of the Court, hard copies should not be lodged with Chambers.

E. DISCOVERY DISPUTES

9. In lieu of filing formal discovery motions, lead trial counsel for the parties involved in the discovery dispute shall meet and confer **by video conference** regarding the subject matter of the dispute(s) in an effort to resolve these matters. After attempting other means to confer on the issue (i.e. letter, phone call, e-mail) any party may demand such a meeting on five business days' notice. Within five business days of the lead trial counsels' meet-and-confer session, the parties shall provide a detailed Joint Letter to the Court, not to exceed five pages without leave of Court. This Joint Letter shall include a description of every issue in dispute and, with respect to each such issue, a detailed summary of each party's final substantive position and their final proposed compromise on each issue. Upon receipt of the Joint Letter the Court will determine what future proceedings are necessary. The meet and confer and joint letter procedures in this Order apply to disputes among the parties to this action and to disputes between parties and non-parties who have been served with subpoenas.

10. As soon as a party has notice of this order, the party shall take such affirmative steps as are necessary to preserve evidence related to the issues presented by the action, including, without limitation, interdiction of any document destruction programs and any ongoing erasures of emails, voice mails, and other electronically recorded material to the extent necessary to preserve information relevant to the issues presented by this action.

11. In responding to requests for documents and materials under Fed. R. Civ. P. 34, all parties shall affirmatively state in a written response served on all other parties the full extent to which they will produce materials and shall, promptly after the production, confirm in writing that they have produced all such materials so described that are locatable after a diligent search of all locations at which such materials might plausibly exist. It shall not be sufficient to object and/or to state that "responsive" materials will be or have been produced.

12. In searching for responsive materials in connection with Fed. R. Civ. P. 34 requests or for materials required to be disclosed under Fed. R. Civ. P. 26(a)(1), parties must search computerized files, emails, voice mails, work files, desk files, calendars and diaries, and any other locations and sources if materials of the type to be produced might plausibly be expected to be found there.

13. To the maximum extent feasible, all party files and record should be retained and produced in their original form and sequence, including file folders, and the originals should remain available for inspection by any counsel on reasonable notice.

14. Except for good cause, no item will be received in evidence if the proponent failed to produce it in the face of a reasonable and proper discovery request covering the item, regardless of whether a motion to overrule any objection thereto was made.

1 15. Privilege logs shall be promptly provided and must be sufficiently detailed and
2 informative to justify the privilege. See Fed. R. Civ. P. 26(b)(5). No generalized claims of
3 privilege or work product protection shall be permitted. With respect to each communication for
4 which a claim of privilege or work product is made, the asserting party must at the time of its
5 assertion identify: (a) all persons making and receiving the privileged or protected communication.
6 (b) the steps taken to ensure the confidentiality of the communication, including affirmation that
7 no unauthorized persons have received the communication, (c) the date of the communication, and
8 (d) the subject matter of the communication. Failure to furnish this information at the time of the
9 assertion will be deemed a waiver of the privilege or protection.

10 **F. DEPOSITIONS**

11 16. Absent extraordinary circumstances, counsel shall consult in advance with opposing
12 counsel and unrepresented proposed deponents to schedule depositions at mutually convenient
13 times and places. Where an agreement cannot be reached as to any party deponent or a deponent
14 represented by counsel of record, the following procedure may be invoked by the party seeking
15 any such deposition. The party seeking such a deposition may notice it at least thirty days in
16 advance. If the noticed date and place is unacceptable to the deponent or the deponent's counsel,
17 then within ten days of receipt of the notice, the deponent or counsel for the deponent must reply
18 and counter-propose in writing an alternative date and place falling within thirty days of the date
19 noticed by the party seeking the deposition.

20 17. Counsel and parties shall comply with Fed. R. Civ. P. 30(d)(1). Deposition objections
21 must be as to privilege or form only. Speaking objections are prohibited. When a privilege is
22 claimed, the witness should nevertheless answer questions relevant to the existence, extent, or
23 waiver of the privilege, such as the date of a communication, who made the statement, to whom
24 and in whose presence the statement was made, other persons to whom the contents of the
25 statement have been disclosed, and the general subject matter of the statement, unless such
26 information is itself privileged. Private conferences between deponents and attorneys in the course
27 of interrogation, including a line of related questions, are improper and prohibited except for the
28 sole purpose of determining whether a privilege should be asserted.

19 **G. PRONOUNS**

20 18. Litigants and lawyers may indicate their pronouns (e.g., she/her, he/him, they/their) and
21 honorifics (e.g., Mr., Ms., Mx., Dr.) by mailing a confidential letter to Judge Spero's chambers,
22 filing a request on the case docket, or adding the information in the name block or signature line of
23 the pleadings.

23 **H. SOCIAL SECURITY APPEALS**

24 19. Where a plaintiff seeks review of a decision by the Commissioner of Social Security
25 denying plaintiff Social Security payments, the Court uses only the initials of the plaintiff in its
26 Orders to protect the plaintiff's privacy.

26 **I. SANCTIONS**

27 20. Failure to comply with this Order of the Local Rules of this Court may result in sanctions.
28 See Fed. R. Civ. P. 16(f), Civil L.R. 1-4.

United States District Court
Northern District of California

1 Dated: March 1, 2021

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4 JOSEPH C. SPERO
5 Chief Magistrate Judge
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**STANDING ORDER FOR ALL JUDGES
OF THE NORTHERN DISTRICT OF CALIFORNIA**

CONTENTS OF JOINT CASE MANAGEMENT STATEMENT

All judges of the Northern District of California require identical information in Joint Case Management Statements filed pursuant to Civil Local Rule 16-9. The parties must include the following information in their statement which, except in unusually complex cases, should not exceed ten pages:

1. Jurisdiction and Service: The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and, if any parties remain to be served, a proposed deadline for service.
2. Facts: A brief chronology of the facts and a statement of the principal factual issues in dispute.
3. Legal Issues: A brief statement, without extended legal argument, of the disputed points of law, including reference to specific statutes and decisions.
4. Motions: All prior and pending motions, their current status, and any anticipated motions.
5. Amendment of Pleadings: The extent to which parties, claims, or defenses are expected to be added or dismissed and a proposed deadline for amending the pleadings.
6. Evidence Preservation: A brief report certifying that the parties have reviewed the Guidelines Relating to the Discovery of Electronically Stored Information ("ESI Guidelines"), and confirming that the parties have met and conferred pursuant to Fed. R. Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the issues reasonably evident in this action. *See ESI Guidelines 2.01 and 2.02, and Checklist for ESI Meet and Confer.*
7. Disclosures: Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26, and a description of the disclosures made.
8. Discovery: Discovery taken to date, if any, the scope of anticipated discovery, any proposed limitations or modifications of the discovery rules, a brief report on whether the parties have considered entering into a stipulated e-discovery order, a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f), and any identified discovery disputes.
9. Class Actions: If a class action, a proposal for how and when the class will be certified, and whether all attorneys of record for the parties have reviewed the Procedural Guidance for Class Action Settlements.
10. Related Cases: Any related cases or proceedings pending before another judge of this court, or before another court or administrative body.
11. Relief: All relief sought through complaint or counterclaim, including the amount of any damages sought and a description of the bases on which damages are calculated. In addition, any party from whom damages are sought must describe the bases on which it contends damages should be calculated if liability is established.

12. Settlement and ADR: Prospects for settlement, ADR efforts to date, and a specific ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key discovery or motions necessary to position the parties to negotiate a resolution.
13. Consent to Magistrate Judge For All Purposes: Whether **all** parties will consent to have a magistrate judge conduct all further proceedings including trial and entry of judgment. ___ Yes ___ No
14. Other References: Whether the case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.
15. Narrowing of Issues: Issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to bifurcate issues, claims, or defenses.
16. Expedited Trial Procedure: Whether this is the type of case that can be handled under the Expedited Trial Procedure of General Order No. 64 Attachment A. If all parties agree, they shall instead of this Statement, file an executed Agreement for Expedited Trial and a Joint Expedited Case Management Statement, in accordance with General Order No. 64 Attachments B and D.
17. Scheduling: Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.
18. Trial: Whether the case will be tried to a jury or to the court and the expected length of the trial.
19. Disclosure of Non-party Interested Entities or Persons: Whether each party has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-15. In addition, each party must restate in the case management statement the contents of its certification by identifying any persons, firms, partnerships, corporations (including parent corporations) or other entities known by the party to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding. In any proposed class, collective, or representative action, the required disclosure includes any person or entity that is funding the prosecution of any claim or counterclaim.
20. Professional Conduct: Whether all attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.
21. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.